

REMARKS

As indicated in the claim chart under 37 C.F.R. § 41.202(a)(3) submitted with the Reply to Office Action dated May 27, 2008 ("May 2008 Reply"), Applicant notes that claims 1-3 and 5-26 of U.S. Patent No. 6,083,225 to Winslow et al. ("225 patent") correspond to claims 1-25, respectively, of the proposed count, and claims 105-129 of the present application also correspond to claims 1-25, respectively, of the proposed count.

The claims interfere within the meaning of 37 C.F.R. § 41.203(a) because of the subject matter of claims 105-129 of the present application, would, if prior art, anticipate or render obvious the subject matter of claims 1-3 and 5-26, respectively, of the '225 patent, and vice versa.

In response to a telephonic inquiry from a representative of the U.S. Patent and Trademark Office (USPTO), Applicant notes the following to facilitate the declaration of an interference with the '225 patent.

(1) Pursuant to a request from the USPTO, Applicant is submitting (as Exhibit A) a copy of an Amendment filed July 03, 2001.

(2) Applicant notes that the specification was amended in the Transmittal of the present application dated June 27, 2000. As amended, the first paragraph of the present application recites the following:

This is a continuation of application Serial No. 08/396,414, filed February 27, 1995, which is incorporated herein by reference.

(3) As indicated in the May 2008 Reply, Applicant will prevail on priority because the present application has an effective filing date more than one (1) year prior to the earliest effective filing date of the '225 patent. The present application claims priority to, and includes all the subject matter of U.S. Application No. 08/396,414, now U.S. Patent No. 6,080,155 (the "parent application"), filed February 27, 1995. Accordingly, the priority of the present application is *prima facie* earlier than the priority of the '225 patent.

(4) Applicant submits that patents directly related to the present application are not currently the subject of litigation in the United States.

(5) At the request of the representative of the USPTO, Applicant is submitting a Terminal Disclaimer with regards to related patents including claims directed to subject matter similar to the claims of the present application. To that end, Applicant is submitting a Terminal Disclaimer in the present application in association with U.S. Patent Nos. 6,080,155, 6,270,498, 6,770,074, 7,431,722, and 7,569,054.


In view of the foregoing remarks, Applicant submits that an Interference Proceeding should be instituted between the present application and the '225 patent, as allowed claims 105-129 of the present application are substantially similar to claims 1-3 and 5-29 of the '225 patent.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-3726.

Respectfully submitted,

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